

105TH CONGRESS  
2D SESSION

# S. 2144

To amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 9, 1998

Mr. COVERDELL introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

---

## A BILL

To amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage recordkeeping and overtime compensation requirements certain specialized employees.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sales Incentive Com-  
5 pensation Act”.

6 **SEC. 2. EXEMPTION.**

7 Section 13(a) of the Fair Labor Standards Act of  
8 1938 (29 U.S.C. 213(a)) is amended by striking the pe-

1 riod at the end of paragraph (17) and inserting a semi-  
 2 colon and by adding at the end the following:

3 “(18) any employee employed in a sales position  
 4 if—

5 “(A) the employee has specialized or tech-  
 6 nical knowledge related to products or services  
 7 being sold;

8 “(B) the employee’s—

9 “(i) sales are predominantly to per-  
 10 sons or entities to whom the employee’s  
 11 position has made previous sales; or

12 “(ii) position does not involve initiat-  
 13 ing sales contacts;

14 “(C) the employee’s position requires a de-  
 15 tailed understanding of the needs of those to  
 16 whom the employee is selling;

17 “(D) the employee receives—

18 “(i) base compensation, determined  
 19 without regard to the number of hours  
 20 worked by the employee, of not less than  
 21 an amount equal to one and one-half times  
 22 the minimum wage in effect under section  
 23 6(a)(1) multiplied by 2,080; and

24 “(ii) in addition to the employee’s  
 25 base compensation, compensation based

1           upon each sale attributable to the em-  
2           ployee;

3           “(E) the employee’s aggregate compensa-  
4           tion based upon sales attributable to the em-  
5           ployee is not less than 40 percent of one and  
6           one-half times the minimum wage multiplied by  
7           2,080;

8           “(F) the employee receives a rate of com-  
9           pensation based upon each sale attributable to  
10          the employee which is beyond sales required to  
11          reach the compensation required by subpara-  
12          graph (E) which rate is not less than the rate  
13          on which the compensation required by sub-  
14          paragraph (E) is determined; and

15          “(G) the rate of annual compensation or  
16          base compensation for any employee who did  
17          not work for an employer for an entire calendar  
18          year is prorated to reflect annual compensation  
19          which would have been earned if the employee  
20          had been compensated at the same rate for the  
21          entire calendar year.”.

○